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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,629	05/15/2002	Henning Schumacher	BKS-0002	2956

7590 05/25/2004

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EXAMINER

MCKANE, ELIZABETH L

ART UNIT PAPER NUMBER

1744

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/913,629

Applicant(s)

SCHUMACHER, HENNING

Examiner

Leigh McKane

Art Unit

1744

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Leigh McKane
Leigh McKane
Primary Examiner
Art Unit: 1744

Advisory Action

1. Applicant argues that Parker teaches a first cleaning step and a second disinfecting step and that the cleaning step is not disclosed to use quaternary compounds. However, as set forth in the previous rejection, the instant claims use the open language “comprising.” As such, the claims only require a method for disinfecting and cleaning wherein the confined lumina is contacted with an invert soap. The claims *do not require* that the step of contacting the lumina with the invert soap occur during a cleaning step. Therefore, it is not necessary for Parker to teach using the quaternary ammonium compound as a cleaning agent. As long as Parker teaches a method of cleaning and disinfecting, wherein a quaternary ammonium compound is used in *any* step, the reference renders obvious the present invention.

As to the arguments that because Parker teaches that quaternary ammonium compounds are “a less powerful disinfectant,” the reference teaches away from using the quaternary ammonium compound of Hall, the Examiner notes that a reference is not limited to a preferred embodiment. In fact, all of the disclosures in a reference must be evaluated for what they fairly teach one of ordinary skill in the art. In re Boe, 148 USPQ 507 (CCPA 1966).


With respect to Applicant’s contention that Parker fails to teach that its compounds do not tend to foam, applicant is arguing limitations that do not appear in any claim. Similarly, although Applicant argues that Hall fails to teach that the specific quaternary ammonium compounds are capable of both cleaning and disinfecting without the aid of certain substituted imidazoline based amphoteric surfactants, there is no necessity for Hall to teach this, as these limitations are not claimed and the instant claims use the open language “comprising.”

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh McKane whose telephone number is 571-272-1275. The examiner can normally be reached on Monday-Wednesday (7:15 am-4:45 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1275. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Leigh McKane
Primary Examiner
Art Unit 1744

elm
23 May 2004